

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2021-276-C

Application of)	
)	
ExteNet Asset Entity, LLC)	
)	DIRECT TESTIMONY OF BRIAN KIRK
for a Certificate of Public Convenience)	
and Necessity to Provide Competing)	
Local Exchange and Interexchange)	
Telecommunications Services in the State)	
of South Carolina)	

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A.** My name is Brian Kirk. My business address is 3030 Warrenville Rd., Suite 340, Lisle, IL
3 60532.

4 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

5 **A.** I am Deputy General Counsel at ExteNet Systems, Inc. (“ESI”), which is the corporate
6 parent of ExteNet Asset Entity, LLC (“EAE”). I am authorized to provide this testimony
7 on behalf of ESI and its subsidiaries, including EAE (collectively, “ExteNet”).

8 **Q. PLEASE BRIEFLY OUTLINE YOUR BACKGROUND.**

9 **A.** I joined ExteNet in June 2010, and currently manage legal, regulatory and compliance
10 functions for the company and its subsidiaries, including EAE. Prior to joining ExteNet, I
11 previously served as Senior Counsel at Motorola handling carrier customer accounts,
12 product liability, and other regulatory matters, and as an attorney at the Chicago-based law
13 firm Stevens & Associates. I received my B.S. in Environmental Science from Washington
14 University in St. Louis, and my J.D. from the Chicago-Kent College of Law.

1 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING HERE TODAY AND WHAT IS**
2 **THE PURPOSE OF YOUR TESTIMONY?**

3 **A.** I am testifying on behalf of EAE. Through its Application, EAE seeks authority to provide
4 facilities-based and resold local exchange (including exchange access) and interexchange
5 telecommunications services throughout the State of South Carolina. As such, the purpose
6 of my testimony is to present evidence describing the technical, managerial and financial
7 fitness of EAE to provide these services within the State of South Carolina.

8 **Q. ARE ALL THE STATEMENTS IN THE APPLICATION CORRECT AND TRUE**
9 **TO THE BEST OF YOUR KNOWLEDGE, INFORMATION, AND BELIEF?**

10 **A.** Yes.

11 **Q. DO YOU WISH TO INCORPORATE BY REFERENCE ANY DOCUMENTS INTO**
12 **THIS TESTIMONY?**

13 **A.** Yes. I wish to incorporate, by reference, EAE's underlying Application filed in this
14 proceeding and its associated exhibits.

15 **Q. PLEASE GIVE A BRIEF OVERVIEW OF EXTENET AND EAE.**

16 **A.** EAE is a direct, wholly owned subsidiary of ExteNet Issuer, LLC, which in turn is wholly
17 owned by ExteNet Guarantor, LLC, which in turn is wholly owned by ESI. ESI is a
18 privately held Delaware corporation and a direct, wholly owned subsidiary of Odyssey
19 Acquisition, LLC ("Odyssey"), a Delaware limited liability company. Odyssey is an
20 indirect, wholly owned subsidiary of Mount Royal Holdings, LLC ("Parent"), a Delaware
21 limited liability company. Parent has executive offices located at 750 Park of Commerce
22 Drive, Suite 200, Boca Raton, Florida 33487. Parent has no majority owner, but rather is

1 owned by multiple private equity firms, an insurance company, and certain individuals in
2 management of ESI.

3 Founded in 2002, ExteNet designs, builds, owns and operates distributed networks for use
4 by national and regional wireless service providers (“WSPs”) in key strategic markets in
5 North America. Using fiber-fed distributed antenna systems, small cells, Wi-Fi and other
6 technologies, ExteNet deploys distributed networks to enhance coverage and capacity and
7 enable superior wireless service in both outdoor and indoor environments. Primary markets
8 addressed by ExteNet include outdoor distributed networks in a variety of densely occupied
9 or heavily traveled settings, and venues used for sports and entertainment events, the
10 hospitality industry, commercial buildings, and healthcare facilities. ExteNet also provides
11 private lines or IP-based transport services to other enterprises and carrier customers.

12 Collectively, ExteNet currently holds authorizations to provide intrastate
13 telecommunications services in the District of Columbia and every state except Alaska,
14 Iowa, Maine, Montana, North Dakota, Vermont, and Wyoming. In South Carolina, ESI is
15 authorized to provide intrastate local exchange and interexchange telecommunications
16 services pursuant to authority granted in Docket No. 2012-207-C.

17 EAE is authorized to provide telecommunications services in Colorado, Delaware, the
18 District of Columbia, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland,
19 Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, Ohio,
20 Oklahoma, Pennsylvania, Rhode Island, Tennessee, Utah, Washington, and Wisconsin. In
21 addition to South Carolina, EAE is in the process of seeking authorization or planning to
22 seek authorization to provide intrastate telecommunications services in the following
23 jurisdictions: Alabama, Arizona, Connecticut, Georgia, New Mexico, and North Carolina.

1 **Q. WHAT IS THE PURPOSE OF THE APPLICATION?**

2 **A.** The Application was filed to request a Certificate of Public Convenience and Necessity
3 (“CPCN”) to provide facilities-based and resold local exchange (including exchange
4 access) and interexchange telecommunications services throughout the State of South
5 Carolina.

6 **Q. PLEASE DESCRIBE THE SERVICES EAE PROPOSES TO OFFER IN SOUTH**
7 **CAROLINA.**

8 **A.** The telecommunications services EAE expects to provide initially will include point-to-
9 point telecommunications services. These services will be offered to WSPs, other
10 telecommunications carriers and communications providers. EAE will initially utilize its
11 own facilities and network infrastructure to provide service, but also seeks authority to
12 provide service via resale arrangements. EAE does not intend to furnish switched voice
13 services or dial tone and has no immediate plans to provide retail switched voice services,
14 including dial-tone to end-user customers in South Carolina. In the event that EAE decides
15 to expand its services to include voice services as dictated by marketplace conditions, EAE
16 will seek such authority at that time. EAE will comply with all applicable Commission
17 rules, regulations and standards, and will provide safe, reliable and high-quality
18 telecommunications services in South Carolina.

19 **Q. DOES EAE INTEND TO OFFER PREPAID DEBIT CARD SERVICES OR**
20 **RETAIL RESIDENTIAL LOCAL EXCHANGE SERVICES IN SOUTH**
21 **CAROLINA?**

22 **A.** Not at this time. EAE is aware of the Commission’s \$5,000 bond or certificate of deposit
23 requirement associated with prepaid debit card services, as well as the bond requirements

1 of S.C. Code Ann. Regs. 103-607, and will file any such required instrument with the
2 Commission (or seek an appropriate waiver) should EAE decide to offer those services in
3 the future.

4 **Q. HOW WILL EAE BILL FOR ITS SERVICES?**

5 A. EAE's customers will be billed according to individual case basis contracts negotiated with
6 each customer.

7 **Q. HOW ARE TROUBLE REPORTS AND CUSTOMER COMPLAINTS HANDLED?**

8 A. ExteNet will perform network and equipment maintenance necessary to ensure compliance
9 with any quality of service requirements and will comply with all applicable Commission
10 rules, regulations and standards and will provide safe, reliable and high-quality
11 telecommunications services within South Carolina. Customers with complaints or
12 inquiries should contact the 24x7x365 Network Operations Center at (866) 892-5327 or
13 noc@extenetsystems.com.

14 **Q. DOES EAE POSSESS SUFFICIENT TECHNICAL AND MANAGERIAL**
15 **RESOURCES TO PROVIDE THE SERVICES FOR WHICH IT REQUESTS**
16 **AUTHORITY?**

17 A. Yes. EAE possesses sufficient technical and managerial resources to provide the services
18 for which it requests authority. EAE will be managed by the management team of its parent
19 company, ESI, who will provide extensive telecommunications business, technical, and
20 managerial expertise to EAE. Biographies of key management personnel of EAE, who are
21 responsible for the EAE's operations, are provided as Exhibit D of the Application. As
22 noted in the biographies, EAE's operations will be overseen by a well-qualified
23 management team with substantial telecommunications experience and technical expertise.

Q. DOES EAE POSSESS SUFFICIENT FINANCIAL RESOURCES TO PROVIDE THE PROPOSED SERVICES FOR WHICH IT REQUESTS AUTHORITY?

A. Yes, EAE possesses sufficient financial resources to provide the proposed services. In support of the Company's financial ability to provide the proposed services and given that EAE does not maintain financial statements separate from the consolidated financial statements of its indirect parent company, ESI, for purposes of this Application, EAE will rely on the financial statements of ESI to demonstrate EAE's financial qualification to operate within the State of South Carolina. The most recent audited consolidated financial statements of ESI were provided as Confidential Exhibit D to the Application. The financial statements demonstrate that EAE has the financial resources necessary to provide services in South Carolina.

Q. WILL GRANTING THE APPLICATION SERVE THE PUBLIC INTEREST?

A. Yes. The public interest of the citizens of South Carolina will be served by granting the Application. First, EAE will increase competition in the provision of telecommunications services in South Carolina. In addition to driving prices closer to costs, thereby ensuring just and reasonable rates, competition also promotes efficiency in the delivery of services and in the development of new services. These benefits work to maximize the public interest by providing continuing incentives for carriers to reduce costs while, simultaneously, promoting the availability of potentially desirable services. EAE's operations will be overseen by a well-qualified management team with substantial telecommunications experience and technical expertise. EAE will provide customers high quality, cost effective telecommunications services, with an emphasis on customer service.

1 **Q. WILL THE SERVICE PROVIDED BY EAE MEET ALL SERVICE STANDARDS**
2 **THAT THE COMMISSION MAY ADOPT?**

3 **A.** Yes, it will.

4 **Q. WILL THE PROVISION OF SERVICE BY EAE ADVERSELY IMPACT THE**
5 **AVAILABILITY OF AFFORDABLE LOCAL EXCHANGE SERVICE IN SOUTH**
6 **CAROLINA?**

7 **A.** No. The service provided by EAE will not adversely impact the availability of affordable
8 local exchange service in South Carolina.

9 **Q. WILL EAE PARTICIPATE IN THE SUPPORT OF UNIVERSALLY AVAILABLE**
10 **TELECOMMUNICATIONS SERVICE AT AFFORDABLE RATES?**

11 **A.** Yes. To the extent that EAE provides services subject to universal service and related
12 requirements in South Carolina, it will participate in the support of universally available
13 telecommunications services at affordable rates.

14 **Q. IS EAE REQUESTING FLEXIBLE REGULATION AND ALTERNATIVE**
15 **TREATMENT OF ITS LOCAL EXCHANGE SERVICE OFFERINGS?**

16 **A.** Yes. EAE respectfully requests that its local service offerings be regulated in accordance
17 with procedures outlined in Order No. 98-165 in Docket No. 97-467-C. EAE requests that
18 all of its business service offerings be regulated pursuant to the procedures described and
19 set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as
20 modified by Commission Order No. 2001-997 in Docket No. 2000-407-C. It is EAE's
21 intent by this request to have its business services regulated in the same manner as this
22 Commission has permitted for AT&T Communications of the Southern States, Inc.
23 ("AT&T"). Specifically, EAE requests that the Commission: (a) remove the maximum

1 rate tariff requirements for its business services, private line, and customer network-type
2 offerings; (b) presume that the tariff filings for these uncapped services be valid upon
3 filing (subject to any instance where the Commission institutes an investigation of a
4 particular filing within seven (7) days, in which case the tariff filing would be suspended
5 until further order of the Commission); and (c) grant EAE the same treatment as AT&T
6 in connection with any future relaxation of the Commission's reporting requirements.

7 **Q. DOES EAE SEEK ANY WAIVERS IN CONNECTION WITH THIS**
8 **APPLICATION?**

9 **A.** Yes. EAE requests that, pursuant to 10 S.C. Reg. 103-601(3), the Commission waive the
10 following Commission Rules: (1) 10 S.C. Reg. 103-610: EAE requests a waiver of the
11 requirement in Rule 103-610 that all records required under the rules be kept within the
12 State. EAE maintains its records at its principal offices in its operational headquarters at
13 10802 Executive Center Drive, Benton Bldg., Suite 300, Little Rock, AR 72211. As such,
14 maintaining a separate set of books and records in South Carolina for EAE's South
15 Carolina operations would be unduly costly and burdensome. EAE states that all such
16 books and records shall be provided to the Commission Staff or the Office of Regulatory
17 Staff ("ORS") in a timely manner upon request, and EAE will also make those books and
18 records available to the Commission Staff or the ORS; (2) 10 S.C. Reg. 103-611: EAE
19 requests that it be exempt from any record-keeping rules or regulations that might require
20 a carrier to maintain its financial records in conformance with the Uniform System of
21 Accounts ("USOA"). The USOA was developed by the FCC as a means of regulating
22 telecommunications companies subject to rate base regulation. EAE will not be subject to
23 rate base regulation and therefore should not be subject to USOA requirements. EAE

1 maintains its books in accordance with Generally Accepted Accounting Principles
2 (“GAAP”); 3) 10 S.C. Reg. 103-631: EAE seeks a waiver of 10 S.C. Code Ann. Regs. 103-
3 631 so that it will not be required to publish local exchange directories. To the extent that
4 EAE provides retail local exchange service in the future, EAE will contract with at least
5 one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion
6 of the Applicant's customer databases in an appropriate directory. In addition to the above
7 requested waivers, EAE reserves the right to seek any regulatory waivers which may be
8 required for EAE to compete effectively in the South Carolina telecommunications market.

9 **Q. WHAT ACTION ARE YOU ASKING THE COMMISSION TO TAKE IN REGARD**
10 **TO THE APPLICATION?**

11 **A.** EAE respectfully requests that the Commission expeditiously grant this Application for the
12 authority to provide facilities-based and resold local exchange (including exchange access)
13 and interexchange telecommunications services throughout the State of South Carolina and
14 grant EAE’s request for alternative and flexible regulation and the waivers described herein
15 and in the Application in this matter, including Exhibits, which are incorporated herein by
16 reference.

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

18 **A.** Yes, it does.